

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MANUEL VERA BETANCOURT)	
)	
Petitioner,)	
)	
v.)	C.A. No. 04-11876-RCL
)	
JOHN ASHCROFT, et al.,)	
)	
Respondents.)	

MEMORANDUM AND ORDER

Now before the Court is petitioner's pro se petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. Petitioner is an immigration detainee now held at the Plymouth County Correctional Facility. For the reasons stated below, (1) petitioner will be granted additional time to either pay the \$5.00 filing fee or file an Application to Proceed Without Prepayment of Fees; and (2) the Court will direct the Clerk to serve the petition.

DISCUSSION

A party filing a habeas petition in this Court must either (1) pay the applicable filing fee or (2) file an Application to Proceed Without Prepayment of Filing Fees and Affidavit (the "Application"). See 28 U.S.C. 1914(a) (\$5.00 filing fee for habeas petitions); 28 U.S.C. 1915 (proceedings in forma pauperis).

Petitioner has not paid the filing fee and has not submitted a request to have the filing fee waived. Therefore, he will be granted additional time to pay the applicable fee or submit an Application to Proceed Without Prepayment of Fees.

The Court will direct the Clerk to serve the petition on the respondents.

CONCLUSION

ACCORDINGLY, for the reasons stated above, it is hereby ORDERED

(1) the petitioner shall, within thirty-five (35) days of the date of this Memorandum and Order, either pay the \$5.00 filing fee or file an Application to Proceed Without Prepayment of Fees. Failure to do so will subject this action to dismissal and the Clerk shall sent petitioner with a copy of this Memorandum and Order an Application to Proceed Without Prepayment of Fees;

(2) the Clerk shall serve a copy of the habeas petition upon: (i) John Ashcroft, Attorney General, (ii) the Immigration and Naturalization Service¹ and (iii) Steven

¹Because the Immigration and Naturalization Service was "abolished" and many of the functions transferred to the Department of Homeland Security, the Clerk shall serve Frank Crowley, Department of Homeland Security, Special Assistant United States Attorney, P.O. Box 8728, JFK Station, Boston, MA

Farquharson, Boston District Director;

(3) the Respondents shall file an answer (or other responsive pleading) to the habeas petition, within twenty (20) days of receipt of this Order.

SO ORDERED.

Dated at Boston, Massachusetts, this 27th day of August 2004.

/s/ Reginald C. Lindsay
REGINALD C. LINDSAY
UNITED STATES DISTRICT JUDGE

02114.